

LOBBYIST LICENSING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ clarifies provisions relating to financial reports;
- ▶ requires the lieutenant governor to provide, and a lobbyist to take, an annual training course relating to unlawful harassment;
- ▶ amends existing rulemaking authority within the Office of the Lieutenant Governor;
- ▶ prohibits a lobbyist from:
 - engaging in unlawful harassment;
 - retaliating against an individual for filing an unlawful harassment complaint or another complaint described in this bill;
 - retaliating against a person for cooperating in an investigation described in this bill; or
 - otherwise interfering with an investigation described in this bill;
- ▶ grants rulemaking authority to the director of elections within the Office of the Lieutenant Governor relating to a complaint and investigation described in this bill;
- ▶ requires a lobbyist to cooperate with an investigation described in this bill;
- ▶ provides penalties for a lobbyist who violates the provisions of this bill; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-11-103, as last amended by Laws of Utah 2015, Chapter 188

33 **36-11-106**, as last amended by Laws of Utah 2002, Chapter 317

34 **36-11-307**, as enacted by Laws of Utah 2011, Chapter 389

35 **36-11-401**, as last amended by Laws of Utah 2015, Chapter 258

36 **36-11-404**, as last amended by Laws of Utah 2008, Chapter 382

37 ENACTS:

38 **36-11-501**, Utah Code Annotated 1953

39

40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **36-11-103** is amended to read:

42 **36-11-103. Licensing requirements.**

43 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
44 lieutenant governor by completing the form required by this section.

45 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

46 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
47 includes:

48 (i) a place for the lobbyist's name and business address;

49 (ii) a place for the following information for each principal for whom the lobbyist
50 works or is hired as an independent contractor:

51 (A) the principal's name;

52 (B) the principal's business address;

53 (C) the name of each public official that the principal employs and the nature of the
54 employment with the public official; and

55 (D) the general purposes, interests, and nature of the principal;

56 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
57 registration fee, if the fee is not paid by the lobbyist;

58 (iv) a place for the lobbyist to disclose:

59 (A) any elected or appointed position that the lobbyist holds in state or local
60 government, if any; and

61 (B) the name of each public official that the lobbyist employs and the nature of the
62 employment with the public official, if any;

63 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist

will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section; and

(ii) pays a \$110 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 of each even-numbered year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) ~~[for]~~ during the term of any suspension imposed under Section 36-11-401;

(iv) during the term of a suspension or revocation imposed under Subsection 36-11-307(7);

~~[(iv)]~~ (v) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

~~[(v)]~~ (vi) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4,

95 Administrative Procedures Act.

96 (5) The lieutenant governor shall deposit each license fee into the General Fund as a
97 dedicated credit to be used by the lieutenant governor to pay the cost of administering the
98 license program described in this section.

99 (6) A principal need not obtain a license under this section, but if the principal makes
100 expenditures to benefit a public official without using a lobbyist as an agent to confer those
101 benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

102 (7) Government officers need not obtain a license under this section, but shall disclose
103 any expenditures made to benefit public officials as required by Section 36-11-201.

104 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
105 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
106 reports by Section 36-11-201.

107 Section 2. Section **36-11-106** is amended to read:

108 **36-11-106. Financial reports are public documents.**

109 (1) Any person may:

110 (a) without charge, inspect a license application or financial report filed with the
111 lieutenant governor in accordance with this chapter; and

112 (b) make a copy of a financial report after paying for the actual costs of the copy.

113 (2) The lieutenant governor shall make financial reports filed in accordance with this
114 chapter available for viewing on the Internet at the lieutenant governor's website within seven
115 calendar days after the day on which the report is received by the lieutenant governor.

116 Section 3. Section **36-11-307** is amended to read:

117 **36-11-307. Ethics and unlawful harassment training course for lobbyists --**
118 **Internet availability -- Content -- Participation tracking -- Penalty.**

119 (1) The lieutenant governor shall develop and maintain [~~an ethics training course~~]
120 training courses for lobbyists on ethics and unlawful harassment.

121 (2) [~~The ethics~~] A training course described in Subsection (1) shall include training
122 materials and exercises that are available on the Internet to lobbyists and to the public.

123 (3) The lieutenant governor shall design the ethics training course [~~shall be designed~~]
124 to assist lobbyists in understanding and complying with current ethical and campaign finance
125 requirements under state law, legislative rules, and federal law.

126 (4) The lieutenant governor shall design the unlawful harassment training course to
127 assist lobbyists in understanding and complying with state and federal legal requirements,
128 legislative rules, and administrative rules relating to unlawful harassment.

129 ~~[(4)]~~ (5) ~~[The ethics]~~ A training course described in this section shall include
130 provisions for verifying when a lobbyist has successfully completed ~~[key training exercises]~~ the
131 training.

132 ~~[(5)]~~ (6) A lobbyist shall successfully complete the ~~[key training exercises of the ethics~~
133 ~~training course]~~ training courses described in this section once each calendar year.

134 ~~[(6) A lobbyist who does not complete the training required by this section is subject to~~
135 ~~a penalty as provided in Section 36-11-401.]~~

136 (7) (a) If a lobbyist fails to complete the training described in this section before the
137 end of a calendar year, the lieutenant governor shall immediately suspend the lobbyist's
138 lobbying license.

139 (b) The lieutenant governor shall lift a suspension described in Subsection (7)(a) if:

140 (i) the lobbyist completes the training described in this section;

141 (ii) the lobbyist pays a \$1,000 fine; and

142 (iii) the lobbyist's license is not otherwise suspended or revoked.

143 (c) If a lobbyist completes the training described in this section after the annual
144 deadline, the completion:

145 (i) satisfies the training requirement for the previous calendar year; and

146 (ii) does not satisfy the training requirement for the current calendar year.

147 (d) The lieutenant governor shall revoke the lobbying license of a lobbyist who does
148 not comply with Subsection (7)(b)(i) and (ii) within 180 days after the day on which the
149 lobbyist's license is suspended under Subsection (7)(a).

150 (e) A lobbyist whose license is revoked under Subsection (7)(d) may not obtain a new
151 lobbying license unless the lobbyist:

152 (i) applies for, and qualifies to receive, a new lobbying license;

153 (ii) completes the training described in this section; and

154 (iii) pays a \$2,000 fine.

155 (f) The lieutenant governor shall, within one business day after the day on which the
156 lieutenant governor takes action described in this Subsection (7), provide written notice of the

157 action to the secretary of the Senate and the clerk of the House of Representatives.

158 Section 4. Section **36-11-401** is amended to read:

159 **36-11-401. Penalties.**

160 (1) Any person who intentionally violates Section 36-11-103, 36-11-201, 36-11-301,
161 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following
162 penalties:

163 (a) an administrative penalty of up to \$1,000 for each violation; and

164 (b) for each subsequent violation of that same section within 24 months, either:

165 (i) an administrative penalty of up to \$5,000; or

166 (ii) suspension of the violator's lobbying license for up to one year, if the person is a
167 lobbyist.

168 (2) Any person who intentionally fails to file a financial report required by this chapter,
169 omits material information from a license application form or financial report, or files false
170 information on a license application form or financial report, is subject to the following
171 penalties:

172 (a) an administrative penalty of up to \$1,000 for each violation; or

173 (b) suspension of the violator's lobbying license for up to one year, if the person is a
174 lobbyist.

175 (3) Any person who intentionally fails to file a financial report required by this chapter
176 on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1)
177 or (2), pay a penalty of up to \$50 per day for each day that the report is late.

178 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,
179 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years
180 from the date of the conviction.

181 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the
182 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
183 conviction.

184 (5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or
185 36-11-303 is guilty of a class B misdemeanor.

186 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted
187 under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

~~[(6) A lobbyist who does not complete the training required by Section 36-11-307 is subject to the following penalties:]~~

~~[(a) an administrative penalty of up to \$1,000 for each failure to complete the training required by Section 36-11-307; and]~~

~~[(b) for two or more failures to complete the training required by Section 36-11-307 within 24 months, suspension of the lobbyist's lobbying license.]~~

~~[(7)]~~ (6) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section 5. Section **36-11-404** is amended to read:

36-11-404. Lieutenant governor's procedures.

(1) ~~[The lieutenant governor]~~ Except as otherwise provided under Section 36-11-501 or rules made under Subsection 36-11-501(4), the director of elections within the Office of the Lieutenant Governor shall make rules that provide:

(a) for the appointment of an administrative law judge to adjudicate alleged violations of this ~~[section]~~ chapter and to impose penalties under this ~~[section]~~ chapter;

(b) procedures for license applications, disapprovals, suspensions, revocations, and reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(2) The lieutenant governor shall develop forms needed for the registration and disclosure provisions ~~[of]~~ described in this chapter.

Section 6. Section **36-11-501** is enacted to read:

Part 5. Unlawful Harassment

36-11-501. Unlawful harassment - Investigation -- Penalties.

(1) As used in this section, "harassment" includes harassment based on race, color, religion, sex, pregnancy, national origin, age, disability, or genetic information.

(2) A lobbyist may not:

(a) engage in unlawful harassment;

(b) retaliate against an individual for filing a complaint alleging a violation of this

219 section;

220 (c) retaliate against a person for cooperating in an investigation conducted by the
221 lieutenant governor or the lieutenant governor's designee in relation to this section; or

222 (d) otherwise interfere with an investigation conducted by the lieutenant governor or
223 the lieutenant governor's designee in relation to this section.

224 (3) A lobbyist shall fully cooperate with an investigation conducted by the lieutenant
225 governor or the lieutenant governor's designee in relation to this section.

226 (4) If a lobbyist violates Subsection (2) or (3), the lieutenant governor may:

227 (a) impose an administrative fine against the lobbyist, not to exceed \$2,000; and

228 (b) suspend the lobbyist's license for a period of up to five years.

229 (5) The director of elections within the Office of the Lieutenant Governor shall make
230 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
231 establishing a procedure:

232 (a) for an individual to file a complaint with the lieutenant governor or the lieutenant
233 governor's designee alleging that a lobbyist violated Subsection (2) or (3); and

234 (b) for investigating a violation of Subsection (2) or (3).

235 (6) The rules described in Subsection (5) shall:

236 (a) protect the due process rights of all persons in relation to a complaint or
237 investigation described in this section; and

238 (b) to the extent practicable, protect the privacy of all persons in relation to a complaint
239 or investigation described in this section.